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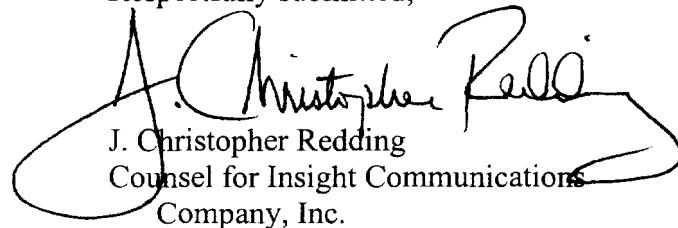
Magalie Roman Salas, Esq.
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Insight Communications Company, Inc.
Inquiry Concerning High-Speed Access to the Internet
Over Cable and Other Facilities
GEN Docket No. 00-185

Dear Ms. Salas:

On behalf of Insight Communications Company, Inc. ("Insight"), we transmit herewith Insight's Reply Comments in the above-referenced Notice of Inquiry ("NOI"). As required pursuant to paragraph 59 of the NOI, we have on this date delivered to Ms. Janice Myles of the Commission's Common Carrier Bureau a "read only" mode diskette copy of Insight's Reply Comments in IBM compatible format using Microsoft Word for Windows, version 7. As required by the NOI, we also are providing a copy of the diskette to International Transcription Services. Please contact the undersigned counsel if you have any questions concerning this matter.

Respectfully submitted,


J. Christopher Redding
Counsel for Insight Communications
Company, Inc.

Enclosure

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SUMMARY

Insight is currently the eighth largest cable MSO in the United States. Insight currently faces intense competition to its core cable television services and to its developing communications services, such as high-speed Internet access, from overbuilders, telephone and DSL companies, electric and gas utilities, fixed wireless and satellite providers. Insight has responded to this competition by aggressively pursuing massive and costly upgrades of its cable system infrastructure. Additionally, Insight has partnered with a number of industry leaders such as AT&T, Motorola, Liberate, Excite@Home, Road Runner and DIVA to deliver new services and technologies to customers in its service areas.

The primary purpose of Insight's Reply Comments is to address specifically the comments submitted to the Commission by EchoStar Satellite Corporation ("EchoStar"). EchoStar suggests that it and other Direct Broadcast Satellite ("DBS") providers are not capable of competing with cable operators in the delivery of high speed Internet services unless the Commission establishes mandatory access rights for such companies. EchoStar's rhetoric is at odds with reality and with the statements made by the DBS industry to the financial community and others. The public record and the Commission's recently issued annual Competition Report clearly demonstrate that DBS companies, including EchoStar, have substantial financial resources and significant revenues from existing, sizable subscriber bases to construct or acquire their own facilities or to join with others to construct or acquire facilities that will compete with cable television operators in the delivery of advanced communications services, including high-speed broadband Internet services, to subscribers. While Commission mandated access to cable

operators' broadband facilities would undoubtedly provide a financial windfall to DBS companies like EchoStar, such an artificial regulatory advantage at this stage of technological development will have a chilling effect on future innovation, investment and deployment of the infrastructure needed for advanced communications services, including high-speed Internet services, and will likely diminish the prospects of a competitive business in a market that is already performing well.

Insight is currently the eighth largest cable MSO in the United States. On January 5, 2000, Insight significantly increased the number of customers it serves when its affiliate, Insight Midwest, L.P., a partnership managed and 50%-owned by Insight, acquired systems in Illinois serving approximately 350,000 customers from affiliates of AT&T Corp. As a result, Insight now serves approximately 1.4 million customers, approximately 99% of which are concentrated in the four contiguous states of Indiana, Kentucky, Illinois and Ohio.

Insight currently faces intense competition to its core cable television services and to its developing communications services, such as high-speed Internet access, from overbuilders, telephone and DSL companies, electric and gas utilities, fixed wireless and satellite providers. Insight has responded to this competition by aggressively pursuing massive and costly upgrades of its cable system infrastructure. Insight expects to complete the upgrade of all of its systems, other than the recently acquired Illinois systems, during 2001 with a total capital investment of approximately \$200 million, of which approximately \$150 million had been invested by the end of 2000, at which time approximately 90% of the system upgrades were complete. Additionally, Insight expects to further invest approximately \$56 million to upgrade the new Illinois systems, which upgrades are expected to be completed during 2002. Insight also plans to invest \$156 million to further upgrade its systems to enable the delivery of AT&T telephony services.

Insight believes that a state-of-the-art technical platform is essential to compete with all of the companies that are or will soon be offering voice, video and data services in its markets and to achieve consistently the high levels of customer service that are required to obtain and retain customers. Insight's use of fiber optic technology and its installation of digital equipment increases system bandwidth, permits the activation of two-way communications services and facilitates the deployment of important new technologies and communications services to Insight's customers. Insight has relied on its advanced technical platform to lead the cable television industry in offering a bundled array of new and enhanced products and services. These include Insight's interactive digital video service known as Insight Digital, featuring video-on-demand and other

interactive services, high-speed Internet access through Insight@Home and Road Runner, and in the very near future all-distance telephony services provided by AT&T.

Insight focuses on introducing these new products and services as part of its strategy to enhance its competitive position with its customers and to increase its return on investment in its geographically concentrated and clustered technical platform. By bundling its products and services, Insight provides customers with an increased choice of services at a reduced price, resulting in higher customer satisfaction, increased use of services and greater customer retention. Realizing that its traditional cable television background does not provide it with the depth of advanced technological experience required to deploy these new services, Insight has partnered with a number of industry leaders such as AT&T, Motorola, Liberate, Excite@Home, Road Runner and DIVA. Insight's focus on delivering these new services and technologies to customers in its service areas has already generated significant customer interest and financial returns. For example, Insight has increased the penetration of its digital video program package in certain systems to 20% within a year of launch, while adding incremental annual revenue per customer.

Insight will neither reiterate the legal debate over the definition of cable modem service nor restate the many other well-founded reasons for avoiding a government-imposed open access obligation on cable operators. The primary purpose of Insight's comments is to address specifically the comments submitted to the Commission by EchoStar. In those comments, EchoStar portrays itself and other DBS companies as small, weak competitors of cable in the provision of video programming, who will be

unable to compete effectively in the provision of high-speed Internet services unless they are allowed to use cable's upgraded broadband facilities. They maintain that "[c]able operators control the only true broadband conduit to and from the home . . . DBS companies are technically disadvantaged in offering truly interactive products."

Comments of EchoStar at page 9.

EchoStar's comments are clearly at odds with reality and statements by DBS providers to the financial community. In terms of its nationwide subscriber base, EchoStar is hardly a small player in the provision of video programming. To the contrary, it serves more subscribers than all but five cable MSOs – more, indeed, than Insight.¹ The reality is that DBS has emerged as a significant competitor to cable, resulting in decreases in cable customer growth rates as well as customer losses. Insight experienced no growth in basic cable customers in 1999. According to the Commission's most recent Annual Competition Report, as of June 2000, DBS providers had approximately 13 million subscribers, "a gain of almost three million subscribers, and an increase of over 28% since June 1999."² According to the Commission, as of June 2000, DBS penetration of "MVPD households" had grown to approximately 15.4% nationally.³ As of June 2000, EchoStar had more than 4.3 million subscribers (a 65% increase in subscribers from June, 1999) and a 33% DBS market share, making it the seventh largest

¹ DirecTV, EchoStar's principal DBS competitor, is larger than all but the two largest cable MSOs.

² *In the Matter of Annual Assessment of the Status of Competition in the Markets for the Delivery of Video Programming*, Seventh Annual Report, CS Docket No. 00-132, FCC 01-1 at ¶ 61 (Released January 8, 2001) ("FCC 2000 Competition Report"). See also *In the Matter of Annual Assessment of the Status of Competition in the Markets for the Delivery of Video Programming*, Sixth Annual Report, 15 FCC Rcd. 978, 1012 (2000).

³ *FCC 2000 Competition Report* at ¶¶ 14, 61.

multichannel video programming distributor in the United States.⁴ The full-page advertisements of EchoStar in any newspaper around the country demonstrate that competition clearly exists, it is formidable, and it has had a direct and material negative impact on the financial performance of Insight and the entire cable industry.

EchoStar's comments to the Commission are simply self-serving and clearly contradict the impression of themselves that DBS operators have been portraying to the financial community. The massive system upgrades required by cable operators have been highlighted by DBS operators in showing the financial community the advantages of DBS over cable. Public comments have been made about the 100% digital composition of DBS allowing it to offer significant bandwidth capacity without costly upgrades, and, most significantly, how DBS is well positioned as against cable by virtue of its scalable technical platform which makes it attractive for national programming services. Because of the regionally concentrated nature of Insight's cable systems, Insight is not in the same position as DBS operators to enter into national programming contracts.

Moreover, EchoStar's market capitalization dwarfs that of its smaller cable competitors. Thus, while Insight relies on its market capitalization of approximately \$1.5 billion to upgrade its systems in order to provide advanced communications services to its customers, EchoStar's market capitalization is *eight times as large* – approximately \$12 billion. EchoStar is able to spread its infrastructure costs over its large national customer base, while Insight is required to absorb its upgrade costs over its 1.4 million

⁴ *Id.* at ¶ 63.

customers in the four states in which it operates. EchoStar's public securities filings show resources substantially greater than that of Insight. An EchoStar subsidiary recently issued \$1 billion in senior notes for additional satellites, acquisitions and general working capital purposes. As of September 30, 2000, EchoStar's unrestricted cash, cash equivalents and marketable investment securities totaled \$1.6 billion.⁵

With this economic base, EchoStar is more than capable of competing with Insight and other cable operators in deploying and providing advanced communications services – and, indeed, it is doing so. EchoStar currently offers the high-speed Internet access service of Starband Communications, which it bundles with its video programming.⁶ And DirecTV offers its DirecPC service, including Turbo Webcast, Turbo Newscast, and Turbo Internet services, offering 400 kbps downloads. It is rare that a week passes without the announcement of a new or enhanced interactive technology. In fact, the advent of satellite-delivered broadband services has been touted by the satellite industry as one of the most exciting developments in the industry.⁷

Unlike EchoStar, Insight has developed business relationships and partnerships with other companies as discussed above that will assist Insight in delivering to its customers the latest advances in digital technologies and services. EchoStar maintains in

⁵ Quarterly Report on Form 10-Q for the period ended September 30, 2000 of EchoStar Communications Corporation.

⁶ *FCC 2000 Competition Report* at ¶ 78. The Commission reported that EchoStar also has a 17.6% interest in Starband and that Starband recently “launched a high-speed Internet service using a single antenna capable of receiving EchoStar’s Dish Network video signal as well as two-way, high-speed data.” The Commission also reports that EchoStar has an interest in WildBlue (formerly iSKY), “a satellite company that intends to use Ka-band spectrum and spot-beam technology to deliver two-way, high-speed data to residential markets” this year. *Id.*

⁷ *See, e.g., Starband Launches Two-Way Satellite Internet Service*, 20 Communications Daily No. 216 at 4 (November 7, 2000).

its comments that the Starband technology is cumbersome to customers, and that its next-generation broadband solution is also spectrum-constrained. However, EchoStar could also develop other business relationships and partnerships with other companies, such as telephone and DSL companies, wireless providers, electric and gas utilities and cable overbuilders, that will facilitate and assist it in delivering advanced communications services to its sizable customer base.⁸

While governmentally-controlled forced access would certainly assist EchoStar in its competitive endeavors against cable, DBS companies do not need such an artificial regulatory advantage. Nor would such regulatory intervention serve the interests of the consumer. The delivery of high-speed Internet services clearly is already a competitive business, with competition not only from satellite providers, wireless providers, electric and gas utilities and cable overbuilders, but also from DSL services provided by ILECs and CLECs.⁹ Given the accelerating pace of development of new technologies and services, it is certain that high-speed Internet access and other advanced communications services will become even more competitive, and cable MSOs will not be in any position to hinder or thwart this competition. Adoption of forced-access regulations by the Commission at this stage of technological development will have a chilling effect on future innovation, investment and deployment of the infrastructure needed for advanced communications services, including high-speed Internet services, and will likely diminish the prospects of a competitive business in a market that is already performing well.

⁸ Indeed, Hughes Electronics Corporation recently purchased DSL provider Telocity and plans to bundle DSL service with its DirecTV video service. According to Hughes' Press Release, with the addition of Telocity, DirecTV achieves nearly "unlimited capacity" for broadband services to its customers. Press Release, *Hughes to Acquire Telocity in \$180 Million Cash Deal; Expands Nationwide Broadband Services Capability* (December 21, 2000).

⁹ See *FCC 2000 Competition Report* at ¶¶ 11, 30, 45, 51-52, 77-79, 88, 134.

Respectfully submitted,

Insight Communications Company, Inc.

By: _____

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January 10, 2001

CERTIFICATE OF SERVICE

I, Sandra A. Dallas, do hereby certify that I caused one copy of the foregoing Reply Comments of Insight Communications Company, Inc. to be served by First Class U.S. Mail, postage prepaid, to all parties listed below, on this 10th day of January, 2001.

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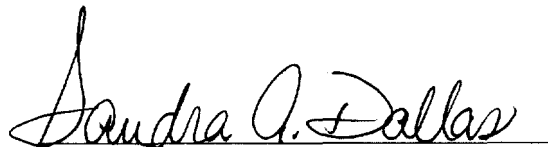
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